

Internal Revenue Service
P.O. Box 2508
Cincinnati, OH 45201

Department of the Treasury

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Employer Identification Number:

Contact Person - ID Number:

Contact Telephone Number:

UIL: 4945.04-04

LEGEND

B=
C=
G=
H=
J
K=
L=

d dollars=
e dollars=

Dear :

We have considered your request for advance approval of your employer-related grant-making program under section 4945(g)(1) of the Internal Revenue Code, dated July 11, 2011.

Our records indicate you are recognized as exempt from federal income tax under section 501(c)(3) of the Code and classified as a private foundation as defined in section 509(a).

Your letter indicates that you will operate a grant-making program.

Your grant making program will provide grants/scholarships to children of employees of B. Grants are intended to constitute a grant or fellowship, excludable from gross income under Section 117(a) of the Code, before its 1986 amendment, and to be used for study at an educational institution as defined in Section 170(b)(1)(a)(ii) of the Code as required by Section 4945(g)(1) of the Code. The grants will each be for a single academic year and students will only be eligible during the first four years they attend a four year baccalaureate program. The grants cannot be used for 2 year programs or for trade programs or anything else outside a four year baccalaureate program. The awards are to be used for a student's college costs, including tuition, fees, books, supplies and equipment for courses of instruction, room, board and other college expenses. You plan to award up to C scholarships annually and project between K and L percentage of applicants will be awarded grants.

Scholarships will generally be equal in size and will be for d dollars adjusted over time for inflation and increased education costs. The awards committee may determine if it is appropriate to award a larger grant.

A larger grant may only be given (i) if the recipient was unusually successful academically or (ii) the recipient is attending an educational institute that is materially more expensive than average. The awards committee will then document the reasons for varying the size of the grant and will provide the information to your directors to be kept as part of your records. However, no grant will exceed e dollars adjusted for inflation. Moreover, the awards committee may then choose to reduce all other scholarships proportionately.

The grants are not restricted based on an intended course of study and continued employment with B is not a requirement for a renewal of a scholarship. Furthermore, children of B's stockholders, and the children of your employees as well as "disqualified persons" will not be eligible for grants. "Disqualified persons" as used herein shall mean "disqualified persons" within the meaning of Internal Revenue Code Section 4946. You will not make grants, which will provide any direct or indirect benefit to any officer or director of you or members of their families. Moreover, your scholarship program will not be communicated orally during B's recruiting or in any other way that it may be construed as a benefit.

You will not award grants based on nationality, religion or ethnic origin. You will not sponsor institutions or individuals affiliated with any institution which so discriminates.

I. The Selection Process

Grants will only be available to children of B's employees who are between the ages of H and I and maintain a G grade point average. Announcements to inform potential candidates about your grant program will be made in the spring at B's sales meeting and notices will be posted for others such as clerical and warehouse employees that applications are being accepted.

Your board of directors will select the awards committee, which will consist of at least three individuals. Members of the awards committee will be totally independent (except for participation on this committee) and separate from you, the organizer, and B. An individual who is a former employee of you or B may not serve on the awards committee. Your awards committee will be selected for their expertise and currently consists of three individuals who have experience at the university level.

The awards committee will select recipients, based on criteria reasonably related to the purposes of the grants including applicant's prior academic performance, need, citizenship and ability. To evaluate candidates, the awards committee will consider academic performance in school, letters of recommendation and a personal interview that will be conducted before the first grant is awarded. Your board will not be involved in developing more specific evaluation criteria because this may impact which candidates would be selected. The awards committee is expected to develop evaluation criteria to have some internal consistency.

Terms and Conditions Under Which You Make Grants

A letter describing the terms and conditions of each grant will be sent to each recipient. These terms and conditions include: the duration of the grant, the total amount of the grant, and the requirement that an official transcript be provided to you at the end of each academic year. It will be stipulated that a renewal of the grant for any succeeding period will be contingent upon evidence that the recipients maintained a G grade point average.

II. Procedure for Exercising Supervision over Individual Grants

Grants will not be paid to the recipients, but will be paid directly to the educational institution or provider of student housing or books or supplies to meet the financial obligations of the student. In addition, you will arrange to receive a report of the recipient's courses taken and grades received in each academic period and will be verified by the educational institution attended by the grantee.

IV. Procedures for Review of Grantee Reports, for Investigation Where Diversion of Grant Funds from their Specified Purposes is indicated, and for the Recovery of Diverted Grant Funds.

Your director will have the responsibility to follow the progress of each grant and to make a determination as to whether the grant purposes are being or have been fulfilled, and to look into any matters requiring further scrutiny or investigation.

Where reports or other information received by you (including failure to submit reports after a reasonable time has elapsed from their due date) indicates that all or any part of the grant funds are not being used for the purposes of such grant funds, you will initiate an investigation. While conducting the investigation, you will withhold further payments to the extent possible until it has been determined that no part of the grant has been used for improper purposes, and until any delinquent reports have been submitted. If any improper use occurs, you will take all reasonable and appropriate steps to recover diverted grant funds or to insure the restoration of diverted funds and the dedication of other grant funds held by the grantee to the purposes being financed by the grant.

V. Retention of Records and other Safeguards

You will retain the records required by Treasury Regulation Section 53.4945-4(c)(6) of the Income Tax Regulations, namely: (a) information secured to evaluate the qualification of potential grantees, (b) records concerning the identification of eligible Grant recipients demonstrating that the relationship of the grantee to you or your employees is not a prohibited relationship within the meaning of Section 4946 of the Internal Revenue Code, (c) the amount and purpose of each grant, and (d) all information and reports received as part of monitoring the grant.

Grant recipients may be monitored from time-to-time to insure that the recipients remain enrolled at the educational institution for the period of enrollment to which the grant is applied. Recipients may be required to prove enrollment at an institution from time-to-time to insure that the grant proceeds are put to their proper use. In the event that a grantee fails to complete a course of study for which the grant is applied and any refund is due to the study by such withdrawal, you will seek refunds of such amounts.

Section 4945(d)(3) of the Code provides that the term "taxable expenditure" means any amount paid or incurred by a private foundation as a grant to an individual for travel, study, or other similar purposes by such individual, unless such grant satisfies the requirements of subsection (g).

Section 4945(g) of the Code provides that section 4945(d)(3) shall not apply to individual grants awarded on an objective and nondiscriminatory basis pursuant to a procedure approved in advance if it is demonstrated that:

- (1) The grant constitutes a scholarship or fellowship grant which is subject to the provisions of section 117(a) (as in effect on the day before the date of the enactment of the Tax Reform Act of 1986) and is to be used for study at an educational organization described in section 170(b) (1) (A) (ii);

- (2) The grant constitutes a prize or award, which is subject to the provisions of section 74(b), if the recipient of such prize or award is selected from the general public, or
- (3) The purpose of the grant is to achieve a specific objective, produce a report or similar product, or improve or enhance a literary, artistic, musical, scientific, teaching or other similar capacity, skill, or talent of the grantee.

Section 53.4945-4(c) (1) of the Regulations provides that to secure approval, a private foundation must demonstrate that:

- (i) Its grant procedure includes an objective and nondiscriminatory selection process;
- (ii) Such procedure is reasonably calculated to result in performance by grantees of the activities that the grants are intended to finance; and
- (iii) The foundation plans to obtain reports to determine whether the grantees performed activities that the grants are intended to finance.

Revenue Procedure 76-47, 1976-2 C.B. 670, sets forth guidelines to be used in determining whether a grant made by a private foundation under an employer-related program to a child of an employee of the particular employer to which the program relates is a scholarship grant that meets the provisions of section 117(a) of the Code (as that section read before the Tax Reform Act of 1986). If a private foundation's program satisfies the seven conditions set forth in Sections 4.01 through 4.07 of Rev. Proc. 76-47 and meets the percentage test described in Section 4.08, the Service will assume the grants meet the provisions of section 117(a), as that section read before the Tax Reform Act of 1986.

You have agreed that procedures in awarding grants under your program will be in compliance with Sections 4.01 through 4.07 of Rev. Proc. 76-47 (without regard to the amendments to section 117(a) made by the Tax Reform Act of 1986). In particular, the selection of individual grant recipients will be made by a selection committee the members of which are totally independent and separate from the private foundation, the foundation's creator, and the relevant employer. The grants will not be used as a means of inducement to recruit employees nor will a grant be terminated if the employee leaves the employer. The recipient will not be restricted in a course of study that would be of particular benefit to the relevant employer or to the foundation.

Section 4.08 of Rev. Proc 76-47 provides a percentage test guideline. It states in the case of a program that awards grants to children of employees of a particular employee, the program meets the percentage test if either of the following tests are met: the number of grants awarded under that program in any year to such children do not exceed 25 percent of the number of employees' children who were eligible, were applicants for such grants, and were considered by the selection committee in selecting the recipients of grants in that year, or the number of grants awarded under the program in any year to such children does not exceed 10 percent of the number of employees' children who can be shown to be eligible for grants (whether or not they submitted an application) in that year.

If the number of scholarships awarded exceeds the percentage thresholds of Rev. Proc 76-47, the organization may still qualify under facts and circumstances if the primary purpose of the

program is to educate recipients in their individual capacities. Such relevant facts and circumstances may include the likelihood that the program may be used for employee recruitment or to retain employees, the independence of the selection committee, standards for scholarship eligibility and selection, limitations on the recipient's choice of course of study, the number of grants available, the number of children of employees who will be eligible for them, the percentage of eligible children of employees applying for the grants who normally receive grants under the program, and whether and how many grants are awarded to individuals who are not children of employees.

The nature of B's business, the fact that B's employees are mostly clerical and warehouse employees and the fact that B has a very low turnover rate is evidence that the grant program is not meant to be a tool for recruiting and retention. In addition, since you will maintain an independent awards committee, will not publicize the program when recruiting potential employees, will not limit the recipient's choice of study and will not make awards to more than L% of the applicants, it is concluded based on facts and circumstances that the primary purpose of your program is to educate recipients in their individual capacities and not as a means for employee recruitment or to retain employees for B.

This determination will remain in effect as long as the procedures in awarding grants under your program remain in compliance with Sections 4.01 through 4.08 of Rev. Proc. 76-47 (without regard to the amendments to section 117(a) made by the Tax Reform Act of 1986).

Based on the information submitted and assuming your award programs will be conducted as proposed, with a view to providing objectivity and nondiscrimination in making the awards, we have determined that your procedures for granting the awards comply with the requirements contained in section 4945(g) (1) of the Code and that awards granted in accordance with such procedures will not constitute "taxable expenditures" within the meaning of section 4945(d) (3).

In addition, we have determined that awards made under your procedures are 'scholarship or fellowship' grants within the meaning of section 117 of the Code, and are excludable from the gross income of the recipients subject to the limitations provided in section 117(b) of the Code, including to the extent that such grants are used for qualified tuition and related expenses within the meaning of section 117(b) (2) of the Code.

This determination is conditioned on the understanding that there will be no material change in the facts upon which it is based. It is further conditioned on the premise that no grants will be awarded to foundation managers, or members of the selection committee, or for a purpose that is inconsistent with the purpose described in section 170(c)(2)(B) of the Code.

The approval of your employer-related grant-making program is a one-time approval. This determination only covers the grant programs described above. Thus, approval shall apply to subsequent grant programs only as long as the standards and procedures under which they are conducted do not differ materially from those described in your request.

Any funds you distribute to individuals must be made on a true charitable basis in furtherance of the purposes for which you are organized. Therefore, you should maintain adequate records and histories so that any or all grant distributions can be substantiated upon request by the Internal Revenue Service.

This determination is directed only to the organization that requested it. Section 6110(k) (3) of the Code provides that it may not be used or cited as a precedent.

You must report any future changes in your grant making procedures. Please keep a copy of this letter in your permanent records.

We have sent a copy of this letter to your representative as indicated in your power of attorney.

If you have any questions, please contact the person whose name and telephone number are shown above.

Sincerely yours,

Lois G. Lerner
Director, Exempt Organizations